

MEGATALKER: VISA Waiver Program

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Overview

What is the Visa Waiver Program?

- The Visa Waiver Program (VWP) enables nationals of certain countries to travel to the United States for tourism or business for stays of 90 days or less without obtaining a visa.
- The program was established in 1986 with the objective of promoting better relations with U.S. allies, eliminating unnecessary barriers to travel, stimulating the tourism industry, and permitting the Department of State to focus consular resources in other areas.

How many people enter the United States on the Visa Waiver Program?

- In FY2004 over 15.6 million travelers were admitted to the United States under the Visa Waiver Program, up from 13.4 million in FY2003. Excluding arrivals from Canada and Mexico, VWP travelers represented approximately 50% percent of total arrivals in the U.S. in FY2004.

Which countries participate in the Visa Waiver Program (VWP)?

- Currently, 27 countries participate in the Visa Waiver Program, including Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.
- Ability to travel under VWP is based on nationality, not place of birth.

What about Canadian, Mexican or Bermudan citizens and VWP?

- Canada, Mexico and Bermuda are not participants in the Visa Waiver Program. The Immigration and Nationality Act includes other provisions for visa-free travel for nationals of Canada and Bermuda under certain circumstances.
- VWP requirements for machine-readable or biometric passports do not apply to nationals of Canada, Mexico or Bermuda.

Designation As A VWP Country, Country Reviews

Who decides which countries are included in the Visa Waiver Program?

- The Secretary of Homeland Security, after consulting with the Secretary of State, is authorized to designate those countries eligible to participate in the VWP.

What are the criteria for a country to be included in the Visa Waiver Program?

- Countries are evaluated individually and are admitted only when they meet the specific, legislatively mandated requirements in Section 217 of the Immigration and Nationality Act.
- These requirements include reciprocal visa-free travel for U.S. citizens, machine-readable passports, prompt reporting of the theft of passports to the USG, a refusal rate for nonimmigrant visitor visa applications of less than three percent and a low overstay and immigration violation rate by nonimmigrant travelers.
- In addition, countries must have a biometric passport program in place and be able to demonstrate strong document and border security, immigration controls and law enforcement cooperation, such that their participation in the program would not constitute a threat to U.S. security or law enforcement interests.
- Status as a U.S. ally or member of the European Union or other international organizations does not eliminate the need to meet all legislative criteria.

What is the process for requesting inclusion in the Visa Waiver Program?

- The U.S. is committed to working with our European allies and other non-VWP participating countries like Korea in clarifying legislative criteria for VWP designation and helping to identify those areas where these countries can focus their efforts in meeting the Visa Waiver Program's (VWP) requirements.
- Consular working groups have been created at several of our overseas posts to meet regularly to develop plans (sometimes referred to as "roadmaps") and monitor developments related to meeting the requirements of the Visa Waiver Program.
- Any decision to expand the program would only be made following consultations within the administration and with Congress.

What is happening with the current reviews of 25 of the 27 VWP countries?

- The purpose of the Visa Waiver Program reviews is to determine the effect that countries' continued participation in the Visa Waiver Program has on U.S. security, immigration and general law enforcement interests. The 2000 Visa Waiver Permanent Program Act (PL 106-396) instituted a requirement that these reviews occur every five years. The review cycle was shortened to every two years by the 2002 Enhanced Border Security and Visa Entry Reform Act.
- A DHS-led interagency working group was convened to conduct the reviews and make recommendations for continuing designation on 25 of the 27 VWP

countries (Italy and Portugal had been reviewed in 2003). The group collected and analyzed information on each VWP country under review from April to December 2004.

- The summary report on the reviews is currently in clearance prior to being submitted to Congress.

Conditions For Using VWP (Instead Of Obtaining Visa)

Which travelers may use the Visa Waiver Program to enter the United States?

Nationals of the 27 countries participating in the Visa Waiver Program may use VWP if:

- The purpose of their stay in the United States is 90 days or less for tourism or business;
- They present a valid machine-readable passport (of any type - regular, emergency, diplomatic, official, etc.). Depending on when VWP travelers' passports were issued, other passport requirements apply:
 - Passports issued before 10/26/05 – no further requirements
 - Passports issued between 10/26/05 and 10/25/06 – digitized photograph on data page
 - Passports issued on or after 10/26/06 – integrated chip with information from the data page (e-passport)
 - [Holders of Austrian, Italian, French and German Temporary Passports](#)
- Temporary, emergency, official and diplomatic passports are exempted from biometric digital photo and chip requirements, but must be machine-readable.
- They have complied with the conditions of previous admissions under the Visa Waiver Program, and have not been found ineligible for a U.S. visa; and
- If arriving by air or sea, they are traveling on an approved carrier and have a return trip ticket to any foreign destination other than the U.S. or adjacent islands; or
- If arriving by land, they can demonstrate the intent to stay 90 days or less in the U.S. and sufficient funds to support themselves in the U.S. VWP nationals resident in Mexico, Canada or adjacent islands are generally exempted from requirements to show onward travel to other foreign destinations.

Bearers of official and diplomatic passports can enter the United States under the VWP provided they are entering for a B-visa purpose. If they are coming for an A or G purpose, including a temporary assignment of less than 90 days, the traveler must obtain an A or G visa. Representatives of the foreign press, radio, film, journalists or other information media, engaging in that vocation while in the U.S. may not enter the U.S. on the Visa Waiver Program. These professionals must obtain a nonimmigrant media (I) visa.

When does a national of a VWP country need to apply for a visa instead of using the VWP?

Travelers who do not meet the conditions noted above must apply for a visa. In particular, a visa must be requested if the traveler:

- Wants to remain in the U.S. for longer than 90 days, or envisions that they may wish to change their status (from tourism to student, etc.) once in the United States;
- Wants to work or study in the United States, wants to come to the U.S. for other purposes not allowed on a visitor visa, or intends to immigrate to the U.S.;
- Does not have a machine-readable passport (MRP) as of June 26, 2005, or is unable to meet other requirements outlined above for passports issued on or after October 26, 2005.
- Intends to travel by private aircraft or other non-signatory air or sea carriers to the U.S.;
- Has been refused a visa or admission to the U.S. before, or did not comply with the conditions of previous VWP admissions (90 days or less stay for tourism or business, etc.); or
- Has a criminal record or other condition making them ineligible for a visa.

Passport Requirements

Will passports issued prior to October 26, 2005 be invalid since they don't meet biometric passport requirements?

- No. Machine-readable passports issued prior to October 26, 2005 are and will be valid for VWP travel until they expire. Only passports issued on or after October 26, 2005 are subject to the additional requirements for a digital photo or integrated chip as outlined above.

Will VWP countries which are unable to produce passports with digital photos or biometric chips by the deadlines be removed from the program?

- No. Biometric passport requirements apply to individual travelers. If these travelers are not able to present passports complying with the biometric requirements (digital photo or integrated chip), they will need to obtain visas for travel to the United States.
- VWP countries all have programs to develop biometric passports, and are committed to increasing the security of international travelers through machine-readable and biometrically enhanced travel documents. No countries will be removed from the VWP for failure to meet biometric deadlines.

How can countries get their passports validated for VWP travel?

- The Department of Homeland Security, in consultation with the Department of State, is creating a validation process so that VWP countries can have their electronic passports tested with DHS readers. Additional details on this process will be provided in discussions with VWP government representatives.

Has the U.S. created a different standard for VWP passports than that developed by the International Civil Aviation Organization (ICAO)?

- No. Passport standards will not vary from ICAO standards.
- The U.S. supports ICAO's vision that biometrics in travel documents provide added security to the authentication of passport data and can enhance the processing and verification of identity of persons at borders.

Will the U.S. passport also contain a biometric?

- Yes. U.S. passports issued in the U.S. contain digitized photos. The Department of State is in the process of developing a U.S. "e-passport" that incorporates a contactless chip to store a digital photograph and biographic data, in compliance with ICAO specifications. We are currently moving forward with procurement of the technology and making decisions on privacy security. We expect to issue the first U.S. e-passport by the end of summer 2005.

What is a machine-readable passport? What is an e-passport (or biometric passport)?

- A machine-readable passport has certain biographical data entered on the data page in accordance with standards set by the International Civil Aviation Organization (ICAO), Doc 9303, Part 1 Machine-Readable Passports.
- These standards address issues like the size of the passport and photograph, arrangement of data fields, and the two lines of printed machine-readable data that appear at the bottom of the page. Machine-readable passports can be read by scanning the two lines of printed data through special readers.
- Travelers should contact their country's passport issuing agency or authority if they have any doubts related to whether their passport is machine-readable.
- An e-passport (sometimes referred to as a biometric passport) incorporates data related to an individual's identity; current ICAO guidelines call for e-passports to include facial recognition data. The contours of individuals' faces are digitally mapped and stored on the chip so that a comparison of facial data for the bearer of the passport and the facial data of the person to whom the passport was issued can be made.

On what basis does the U.S. require machine-readable and biometric passports from VWP travelers?

- The 2000 Visa Waiver Permanent Program Act (P.L. 106-396) required all VWP travelers to have machine-readable passports (MRPs). The 2001 USA PATRIOT Act advanced the machine-readable passport deadline to October 1, 2003. In September 2003, the Secretary of State exercised his authority to waive the MRP requirement for 22 of the 27 countries until October 26, 2004 (Belgian travelers were required to begin using MRPs in May 2003, and Andorra, Brunei, Liechtenstein and Slovenia did not request a waiver). The Department of Homeland Security's Customs and Border Protection began full enforcement of the MRP requirement June 26, 2005.
- The 2002 Enhanced Border Security and Visa Entry Reform Act (EBSVERA) required that passports issued after October 26, 2004 and used for VWP travel must include a biometric identifier based on standards established by ICAO. August 2004 legislation (HR 4417) extended EBSVERA biometric passport deadlines by one year to October 26, 2005. EBSVERA does not provide for authority to waive biometric passport requirements.

What about family passports for VWP travelers?

- Families seeking to enter the U.S. under the VWP need to obtain an individual machine-readable passport which meets program requirements for each traveler, including infants.

VWP At Ports Of Entry

What happens to VWP travelers at ports of entry?

- Detailed information about admissions and entry to the U.S. under the Visa Waiver Program can be obtained from DHS' Customs & Border Protection Bureau.
- Since September 30, 2004 VWP travelers have been enrolled in the DHS US-VISIT program when they arrive at U.S. ports of entry.
- Travelers should be aware that by requesting admission under the Visa Waiver Program, they are generally waiving their right to review or appeal a CBP officer's decision as to their application for admission at the port of entry. Likewise, if the traveler is later found to have violated the conditions of admission under the Visa Waiver Program, they do not have the right to contest a removal order.

Is there a fee to use the Visa Waiver Program (VWP)?

- There is a \$6.00 land border fee for VWP travelers arriving at land ports of entry, per 8 CFR § 103.7(b)(1).

VWP Safeguards

Does the Visa Waiver Program permit terrorists or criminals to enter the United States more easily?

- The Visa Waiver Program does not “waive” any requirements for entry into the U.S. other than the documentary requirement to have a visa. All applicants to the program must still demonstrate that they meet all of other requirements to be admitted.
- The Visa Waiver Program was designed for countries with extremely low rates of visa refusals and immigration violations. The U.S. works closely with these countries to combat illegal immigration and terrorist and criminal threats, and to ensure prompt reporting on incidences of lost and stolen passports and development of more effective means of sharing information.
- Potential vulnerabilities from misuse of the Visa Waiver Program are offset by several factors, including the initial determination (and ongoing monitoring) that a VWP country’s participation in the program does not derogatorily impact U.S. security and law enforcement interest.
- Passports used for VWP travel are generally more secure. To be admitted to the U.S. under the program, VWP travelers must have machine-readable passports, and, for passports issued on or after October 26, 2005, those passports must include biometric data (digital photos or integrated contactless chips).
- In addition, VWP carriers are required to provide basic biographic information on all VWP travelers to Customs and Border Protection prior to the travelers’ arrival in the U.S. As with other passengers, carriers verify that VWP travelers are not on no-fly lists.
- Upon arrival at the port of entry, VWP travelers are screened and checked against watchlists. Since September 30, 2004, all VWP travelers have been enrolled in the US-VISIT entry/exit registration system.